

VICTIMS TOWN OF HINKLEY

Temporary Mailing Address

Barstow, CA 92311

TRANSMITTAL

Dated: July 15, 2015

OGWDW - 4601M

Office of Ground Water and Drinking Water
U. S. EPA Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Attached hereto and incorporated for future reference are copies of:

1. COMPLAINT BEFORE THE STATE BAR AND STATE BAR COURT OF CALIFORNIA
REQUEST FOR REVIEW OF COMPLAINT AND HEARING ON COMPLAINT

Before:

Hon. Richard A. Honn, Review Judge:

Hon. W. Kearse McGill, Hearing Judge;

Hon. Donald F. Miles, Hearing Judge;

Hon. Yvette D. Roland, Hearing Judge.

State Bar of California

Intake Unit

845 S. Figueroa St.

Los Angeles, CA 90017-2515

2. Notices by one of the Victim (Ex-Plaintiff) to serve as reference for other Victims
3. Memorandum by the attorneys for Pacific Gas and Electric Company.
(The Victims Complaint is against those attorneys)

/s/

Signature (Per Signatures' Pages)

~~CONFIDENTIAL~~

VICTIMS TOWN OF HINKLEY

Temporary Mailing Address:

[REDACTED]
Barstow, CA 92311

July 15, 2015

REQUEST FOR REVIEW OF COMPLAINT AND HEARING ON COMPLAINT

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COMPLAINT BEFORE THE STATE BAR AND STATE BAR COURT OF CALIFORNIA

The Victims from the town of Hinkley, CA 92347, per attached hereto signatures' pages, are submitting, as each of them, this complaint against the trial attorneys for Pacific Gas and Electric Company (PG&E), Mr. Ruben Alonso Castellon, State Bar #154610 and Mr. Alastair F. Hamblin, State Bar # 282044, from Castellon & Funderburk LLP, 811 Wilshire Blvd Ste 1025, Los Angeles, CA 90017 (213) 623-7515, and are seeking hearing on the matter:

"Rules of Professional Conduct Rule 5-200 Trial Conduct. In presenting a matter to a tribunal, a member: (B) Shall not seek to mislead the judge, judicial officer, or jury by an artifice or false statement of fact or law; (C) Shall not intentionally misquote to a tribunal the language of a book, statute, or decision; (D) Shall not, knowing its invalidity, cite as authority a decision that has been overruled or a statute that has been repealed or declared unconstitutional; and (E) Shall not assert personal knowledge of the facts at issue, except when testifying as a witness." and "Rule 5-220 Suppression of Evidence. A member shall not suppress any evidence that the member or the member's client has a legal obligation to reveal or to produce."

Mr. Ruben Alonso Castellon and Mr. Alastair F. Hamblin has mislead the presiding Judge Hon. David Cohn, by intentionally (fraudulently) misleading, with absolutely false and prejudicial assertions, including but not limited to that the Plaintiffs (the Victims) has exhibited "tactical ploy" "forum shopping", and were "cut-off", and based upon such major violation of State Bar Rule 5-200 (35 cases), the Court erred by ordering highly prejudicial hearings, further alleged as biased, thereafter the Plaintiff voluntarily dismissed their entire actions, causing further, distinct and massive health injuries to all Plaintiffs in all of the thirty five separate and distinct dismissed cases by the Plaintiffs.

One of the Plaintiff's Notices filed with the Court, the State of California Superior Court, County of San Bernardino, Supervising judge, the Hon. Michael A. Sachs, is attached hereto for reference. (All papers of all Ex-Plaintiffs, now the Victims, were filed with that Court.)

VICTIMS FROM HINKLEY, CA 92347

NO.	Victim's Name	Signature or Signature on Behalf of	Victim's Mailing Address
1	Personal Privacy 6	Personal Privacy 6	
		Personal Privacy 6	

Personal Privacy 6

Personal Privacy 6

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MAILING LIST

<p>California Environmental Protection Agency Cal/EPA Law Enforcement and Counsel Office 1001 "I" Street Sacramento, California 95814</p>	<p>The Honorable Dianne Feinstein, Senator United States Senate Committee on the Judiciary 224 Dirksen Senate Office Building, Washington, D.C. 20510-6050</p>
<p>Office of Environmental Health Hazard Assessment (OEHHA) Prop 65 ARSENIC Attn: Cynthia Oshita, (Disclosure) P.O. Box 4010 Sacramento, California 95812</p>	<p>Hon. Barbara Boxer, U.S. Senator U.S. Senate Committee on Environment 112 Hart Senate Office Building Washington, D.C. 20510</p>
<p>Hon. Jerry Hill, Chair California Senate EQC Oversight State Capitol, Room 2205 Sacramento, California 95814</p>	<p>Hon. Nancy Patricia D'Alesandro Pelosi U. S. Congresswoman United States House of Representatives 233 Cannon H.O.B. Washington, DC 20515</p>
<p>Hon. Luis A. Alejo, Assembly Member Environmental Safety and Toxic Materials Committee 1020 N Street, Room 171 Sacramento, California 95814</p>	<p>Hon. Paul Cook, U.S. Congressman United States House of Representatives 1222 Longworth House Office Building Washington, D.C. 20515-0508</p>
<p>Attn: Gary Edward Tavetian, Esq. Supervising Deputy Attorney General OFFICE OF THE ATTORNEY GENERAL, DOJ Natural Resources Law Section 300 S. Spring Street, #5000 Los Angeles, California 90013</p>	<p>Attn: Julie Jordan; Dan Drazan; Tracy Back US EPA Criminal Investigation Division (CID) Los Angeles Resident Office 600 Wilshire Blvd., Suite 900 Los Angeles, CA 90017</p>
<p>Ross Sevy, District Director Office of Jay Obernolte, Assemblyman 15900 Smoke Tree Street, Suite 125 Hesperia, California 92345</p>	<p>Attn: Deborah L. Harris; W. Benjamin Fisherow U.S. DOJ / Environmental Enforcement Environment and Natural Resources Division 950 Pennsylvania Avenue, NW Washington, DC 20530-0001</p>
<p>Proposition 65 Enforcement Reporting Attention: Prop 65 Coordinator 1515 Clay Street, Suite 2000 Post Office Box 70550 Oakland, California 94612-0550</p>	<p>Attn: Bill L. Lewis; Kendrick D. Williams; Terry Wade; Joseph O. Johns; Patrick Bohrer FBI Investigation Division 11000 Wilshire Boulevard, Suite 1700 Los Angeles, CA 90024</p>

<p>California Attorney General Office, DOJ Proposition 65 Enforcement Reporting 1515 Clay Street, Suite 2000 Oakland, California 94612-0550</p>	<p>OGWDW - 4601M Office of Ground Water and Drinking Water U. S. EPA Environmental Protection Agency 1200 Pennsylvania Avenue, N.W. Washington, DC 20460</p>
<p>Diane Trujilo, Enforcement Agent CAL / EPA ENFORCEMENT 1001 "I" Street Sacramento, CA 95814</p>	<p>The Honorable Dianne Feinstein, Senator United States Senate Committee on the Judiciary 224 Dirksen Senate Office Building, Washington, D.C. 20510-6050</p>
<p>The Honorable Leandra R. Kruger Supreme Court of California 350 McAllister Street San Francisco, CA 94102-4797</p>	<p>Clark Hansen, Chief Deputy District Attorney SAN BERNARDINO COUNTY DISTRICT ATTORNEY BUREAU OF INVESTIGATION - ENVIRONMENTAL CRIMES 14455 Civic Dr., Suite 300 Victorville, CA 92392</p>
<p>The Honorable Joanne B. O'Donnell The California Supreme Court Committee on Judicial Ethics Opinions 350 McAllister Street, Room 1144A San Francisco, California 94102</p>	<p>Hon. Bob Wieckowski, Senator State Capitol, Room 3086, Sacramento, CA 95814-4900 Tel (916) 651-4010</p>

1 [REDACTED]
2 Clearlake, CA 95422
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4

5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
COUNTY OF SAN BERNARDINO
6 [REDACTED]

7 [REDACTED]) Case No.CIVDS1414117
8 vs.)
9 PACIFIC GAS AND ELECTRIC COMPANY,) NOTICE BY [REDACTED] OF
10 a California corporation; and DOES, 1 through) REITERATED: REQUEST FOR
11 50, inclusive,) DISMISSAL; NOTICE OF DISMISSAL;
12) NOTICE OF ADDRESS CHANGE, OR
13) ABOUT TO CHANGE (NOT A NOTICE OF
14) DIVERSE JURISDICTION); AND
15) MEMORANDUM OF POINTS AND
16) AUTHORITIES IN SUPPORT THEREOF

17 **TO HON. DAVID COHN, JUDGE AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**
18 [REDACTED]

19 You are hereby notified, that [REDACTED] is hereby reiterating the Request for Dismissal, Notice of
20 Dismissal, Notice of Change of Address (Not a Notice of Diverse Jurisdiction), and filing within
21 Memorandum of Points and Authorities in Support Thereof, a true copy of each papers are attached hereto for
22 Reference.

23 You are also hereby notified, that [REDACTED] is opposing all papers filed and/or served by
24 Pacific Gas and Electric Company in this court, thereafter filed and served by [REDACTED]:
25 Notice of Address Change, or about to change, and Request for Dismissal, a true copy of these papers are
26 attached hereto and incorporated herein for reference, and the opposition is further based upon the attached
27 hereto Memorandum of Points and Authorities in Support Thereof.

28 You are also hereby notified, that [REDACTED] strongly believes that, there is no uncertainty in
the law, based upon the Memorandum of Points and Authorities, and is no longer the Plaintiff in this Case,
and this court is acting out of jurisdiction, including but not limited to scheduling post dismissal's hearings.

REITERATED NOTICE OF ADDRESS CHANGE OR ABOUT TO CHANGE
(NOT A NOTICE OF DIVERSITY JURISDICTION)

1. Attached hereto and incorporated herein for reference is a true copy of filed with this court NOTICE BY PLAINTIFF OF ADDRESS CHANGE, notifying all parties and their attorneys of record that the Plaintiff has change, or is about to change address.

2. Attached hereto and incorporated herein for reference is a true copy obtained from [REDACTED], entitled PACIFIC GAS AND ELECTRIC COMPANY'S AMENDED MEMORANDUM OF POINTS AND AUTHORITIES REGARDING THE PLAINTIFF'S RIGHT TO DISMISS AN ACTION WHEN DISPOSITIVE MOTIONS ARE PENDING, hereinafter "Defendant's Memorandum", entangled therein filed by Defendant PACIFIC GAS AND ELECTRIC COMPANY'S NOTICE OF JOINDER IN MEMORANDUM OF POINTS AND AUTHORITIES REGARDING THE PLAINTIFF'S RIGHT TO DISMISS AN ACTION WHEN DISPOSITIVE MOTIONS ARE PENDING FILED BY DEFENDANT IN THE CASE [REDACTED] V. PACIFIC GAS AND ELECTRIC COMPANY, CASE NO. [REDACTED] CIVDS1416980, which notice of joinder is opposed, by concurrently filed Misjoinder.

3. Defendant, therein Defendant's Memorandum, is falsely representing to this court, and unscrupulously presents untrue facts that the Plaintiff is engaged in forum shopping and of a tactical ploy.

4. There is no fact that the Plaintiff will be seeking anything in any other jurisdiction. Address change only, does not indicate any forum shopping, nor a tactical ploy.

[REDACTED] court should take very seriously such unsubstantiated, grossly misleading and untrue allegations by the Defendant, thus erroneously ruling and therefore severely prejudice the Plaintiff.

6. Furthermore, the Defendant is again misleading this court, by unscrupulously asserting that the Plaintiff filed change of address notices after filed request for dismissal. See date of Address Change and date of the Request for Dismissal. In fact, all allegations by the Defendant are untrue, thus fraudulent.

7. Such assertions, should be construed as fraudulent, all in an attempt to further and distinctively mislead the presiding judge, all to the extreme prejudice of this, no longer construed by statute as a Plaintiff.

REITERATED REQUEST FOR DISMISSAL

8. Attached hereto and incorporated herein for reference is a true copy of filed with this court REQUEST FOR DISMISSAL.

9. Attached hereto and incorporated herein for reference is a true copy obtained from [REDACTED] entitled PACIFIC GAS AND ELECTRIC COMPANY'S AMENDED MEMORANDUM OF POINTS AND AUTHORITIES REGRADING THE PLAINTIFF'S RIGHT TO DISMISS AN ACTION WHEN DISPOSITIVE MOTIONS ARE PENDING, hereinafter "Defendant's Memorandum", entangled therein filed by Defendant PACIFIC GAS AND ELECTRIC COMPANY'S NOTICE OF JOINDER IN MEMORANDUM OF POINTS AND AUTHORITIES REGARDING THE PLAINTIFF'S RIGHT TO DISMISS AN ACTION WHEN DISPOSITIVE MOTIONS ARE PENDING FILED BY DEFENDANT IN THE CASE NICK PANCHEV V. PACIFIC GAS AND ELECTRIC COMPANY, CASE NO. CIVDS1416980, which notice of joinder is opposed, by concurrently filed Misjoinder.

10. When the Request for Dismissal was presented for filing with the Clerk of this Court, the Clerk stated that will not accept the request and the box Entire action of all parties and all causes of action must be checked and the Other box must be voided, stating Dismiss: Pacific Gas and Electric Company, a California corporation, due to complete diversity jurisdiction, regardless that Plaintiff filed Notice of Address Change indicated other jurisdiction, and the sentence of complete diverse jurisdiction must be crossed-out.

11. The Plaintiff did exactly that, marked the box: Entire action of all parties and causes of action, and crossed out the statement of complete diversity jurisdiction and deleted the Other box.

12. Then, the Clerk of the Court accepted the Request for Dismissal Without Prejudice and the dismissal of the Entire action of all parties and all causes of action. A fact, Clerk of the Court did accepted the Request.

13. The Defendant is maliciously asserting that the Plaintiff filed Notice of Dismissal is cut-off because the Plaintiff request for dismissal without prejudice ("Request") is a tactical ploy and that the Plaintiff is engaged in forum shopping. Such assertions, despite the absolute fact that the Plaintiff did not file the Request for Dismissal on such tactical ploy and forum shopping, are also unsubstantiated and are misleading the court.

- 3 -

NOTICE BY [REDACTED] OF REITERATED: RE [REDACTED] DISMISSAL; NOTICE OF DISMISSAL; NOTICE OF ADDRESS CHANGE, OR ABOUT TO CHANGE (NOT A NOTICE OF DIVERSE JURISDICTION); AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

1 14. The Dismissal filed by the Plaintiff, is not cut-off when dispositive motions are pending, since
2 the dismissal not only does not appear to be tactical ploy, but have nothing to do with tactical ploy, thus any
3 pending motion, whether dispositive, or prior to ruling, must be declared as mute. Any contrary ruling will be
4 ~~an error~~ of this court, and highly prejudicial to the Plaintiff, who now believes that is no longer a Plaintiff, and
5 the Defendant is no longer a Defendant. The Request for Dismissal was filed IN GOOD FAITH.

6 15. The Plaintiff have no desire to file new lawsuits anywhere, since strongly believe that
7 whatever is the State's Superior Courts, or Federal District Courts, Plaintiff will always be prejudiced and
8 the bias will more than evident, regardless of Plaintiff's meritorious case, base upon true facts. Plaintiff is
9 now a Victim, is no longer a Plaintiff and contentions as to wrongful acts by Pacific Gas and Electric
10 Company are before the State and Federal regulatory' agencies, not in any courts, whatsoever.

11 16. The Defendant, over and over again, asserts grossly misleading to this court statements, including
12 but not limited to Plaintiff intention to obtain recovery in another forum at the expense PG&E.

13 17. What is more than evident, is that the Defendant did poisoned the aquifers beneath the town of
14 Hinkley, California 92347, where the Plaintiffs are, and as a direct result thereof, the Plaintiffs sustained
15 substantial health injuries and premature wrongful death. That is at the expense of the Victims (Ex-Plaintiffs).

16 18. Further assertions by the Defendant as to domicile, burdening this court, another forum, intent of
17 filing of lawsuits in another jurisdiction, are not only unsubstantiated, not only grossly misleading this court,
18 not only exhibiting quest for revenge, since the Plaintiff presented the true facts in their SAC, but to
19 maliciously prejudice the Plaintiff, all to the benefit of the Defendant. This Court should carefully review all
20 that assertions by the Defendant and since all such assertions are not true, should impose severe sanctions
21 upon the Defendant for grossly misleading this court, misconducts exhibited beyond any borders of law.

22 19. It will be an error of this court to dismissed the Plaintiff's case with prejudice, triggering other
23 actions, in the cumulative, seeking the final just and proper, the final resolution of all controversy, as to all.

24 20. The California laws prohibits such an outcome. Since the Plaintiff did properly and in good faith
25 dismissed the Defendant and all causes of action, there is nothing further this court can do. No jurisdiction.

REITERATED NOTICE OF DISMISSAL

21. Attached hereto and incorporated herein for reference is a true copy of filed with this court NOTICE OF ENTRY OF DISMISSAL AND PROOF OF SERVICE. Nothing more to be heard, nor done.

22. The Ex-Plaintiff strongly believes that, there is no uncertainty in the law, based upon the Memorandum of Points and Authorities, and there is no longer the Plaintiff nor Defendant in this Case, and this court is acting out of jurisdiction, including but not limited to scheduling post dismissal's hearings.

23. This court action to override the Dismissal Entered by Clerks of this court is based upon:

"THE LAW IS UNCLEAR WHETHER A PLAINTIFF HAS AN ABSOLUTE RIGHT TO DISMISS AN ACTION WHEN A DISPOSITIVE MOTION IS PENDING. SEE GENERALLY RYLAARSDAM, ET AL, CAL. PRAC. GUIDE: CIV. PRO. BEFORE TRIAL (TRG 2014) 11:25-11:25:20, PP. 11-23-11-16. IN LIGHT OF THE UNCERTAINTY IN THE LAW, THE COURT WILL ENTERTAIN ARGUMENT ON THE ISSUE AT THE SCHEDULED HEARING ON 8/05/15. IF EITHER PARTY WISHES TO SUBMIT A MEMORANDUM OF POINTS AND AUTHORITIES ON THE QUESTION, IT MUST BE FILED IN DEPARTMENT 37 AT LEAST FIVE COURT DAYS BEFORE THE HEARING, WITH SERVICE ALSO COMPLETED AT LEAST FIVE COURT DAYS BEFORE THE HEARING",

has necessitated, response to the Hon. David Cohn, Judge, in light of respect, however reluctantly, on the following grounds:.

"The Hon. William F. Rylaarsdam, is an associate justice of the California Court of Appeal, Fourth Appellate District. Previously, he served on the Orange Superior Court and Los Angeles Superior Court. Justice Rylaarsdam earned his L.L.M. from the University of Virginia Law School and is a graduate of University of California, Berkeley and Loyola Law School, Los Angeles. He has served on the California Judicial Council task forces and advisory committees, and has written and lectured extensively on civil procedure topics. He is coauthor of The Rutter Group's California Practice Guide: Civil Procedure Before Trial STATUTES OF LIMITATIONS (The Rutter Group California Practice Guide) Civil Procedure Before Trial (The Rutter Group California Practice Guide) Civil Procedure Before Trial (The Rutter Group California Practice Guide) Civil Procedure Before Trial, Premise® CD-ROM Edition (The Rutter Group California Practice Guide) Civil Procedure Before Trial Statutes of Limitations, Premise® CD-ROM Edition (The Rutter Group California Practice

In general, the few exceptions to the absolute right for Plaintiff to Dismiss Without Prejudice, are triggered by the cut-off of "tactical ploy", "forum shopping" and "other acts to circumvent Procedures Before Trial, such as "gaming" and "timing", **which are, as to all, absolutely not the case here.** The Defendant has grossly misrepresented to Hon. David Cohn, that the Plaintiff has exhibited a tactical ploy and forum shopping, further triggering unjustifiable hearings, positioning this court to act, regardless of acting out of jurisdiction.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

24. In general, when there is a voluntary dismissal of an entire action, the action is no longer pending and the court's jurisdiction over the parties and the subject matter terminates. (*In re Casa de Valley View Owner's Assn.* (1985) 167 Cal.App.3d 1182, 1192.) This includes a dismissal pursuant to a settlement agreement. (*Wackeen v. Malis* (2002) 97 Cal.App.4th 429, 437.)

25. **Absent an applicable exception, a plaintiff's right to dismiss anytime before trial is absolute.** The clerk of the court has no discretion to refuse to enter the dismissal; and the court has no power to set it aside against plaintiff's will. (*O'Dell v. Freightliner Corp.* (1992) 10 Cal.App.4th 645, 659; *Franklin Capital Corp. v. Wilson* (2007) 148 Cal.App.4th 187, 190; *Henderson Receivables Origination LLC v. Red Tomahawk* (2009) 172 Cal.App.4th 290, 302.) There are exceptions such as where there is a cross-complaint, complaint in intervention pending, dispositive ruling pending in event of tactical ploy and/or forum shopping.

26. **The Supreme Court's decision in *Kansas Bankers Surety Co. v. Halford*, is read as saying that the Plaintiff's right to dismiss is unaffected by a pending motion.** Plaintiff can voluntarily dismiss an action without prejudice anytime before final submission. "Final submission contemplates submission on both the law and the facts when nothing remains to be done in order to render the submission complete." A final submission occurs in a bench trial when the parties finish their closing arguments. A final submission occurs in a jury trial after the parties finish their closing arguments and the jury has been instructed. At that point, the action has been put in the hands of the trier of fact for a decision on the merits. In *Koll v. Stanton-Pilger Drainage District*, the Nebraska Supreme Court held that the sustaining of a demurrer for failure to state a cause of action is not a final submission. Relying on *Cromwell v. Cummings* (1998) 65 Cal.App.4th Supp. 10 and *Malovec v. Hamrell* (1999) 70 Cal.App.4th 434, it ruled that an order "sustaining a demurrer without leave to amend is a dispositive judicial ruling, . . . [a]ll that's left is a, quote, 'dismissal,' which any party under [section] 581 can request [¶] Once a court makes a dispositive judicial ruling, then the Court loses jurisdiction, [and], as a matter of law, a [section] 128.7 motion is moot. It can't be initiated . . . and it can't be heard or ruled on pursuant to a noticed motion by a party.

1 Dated: July 10, 2015

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3 By: _____ /s/ _____
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27 NOTICE BY [REDACTED] OF REITERATED: RE ~~STATE FOR~~ DISMISSAL; NOTICE OF
28 DISMISSAL; NOTICE OF ADDRESS CHANGE, OR ABOUT TO CHANGE (NOT A NOTICE OF
DIVERSE JURISDICTION); AND MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF

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2 Alastair F. Hamblin (SBN 282044)
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10 Attorneys for Defendant Pacific Gas and Electric Company

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

12 [REDACTED], an individual and DOES, 1
13 through 50, inclusive,

14 Plaintiffs,

15 vs.

16 PACIFIC GAS AND ELECTRIC
17 COMPANY, a California Corporation; and
18 DOES 1 through 50 inclusive,

19 Defendants.

Case No. CIVDS1416980
Assigned for all purposes to:
The Hon. David Cohn

**PACIFIC GAS AND ELECTRIC
COMPANY'S AMENDED
MEMORANDUM OF POINTS AND
AUTHORITIES REGARDING THE
PLAINTIFF'S RIGHT TO DISMISS AN
ACTION WHEN DISPOSITIVE
MOTIONS ARE PENDING**

Date: June 25, 2015
Time: 8:30 a.m.
Dept.: S37

1
2 Pursuant to the Court's June 1, 2015 Order, Defendant Pacific Gas and Electric Company
3 ("PG&E") hereby submits this memorandum of points and authorities regarding a plaintiff's right
4 to voluntarily dismiss an action when a dispositive motion is pending. Pursuant to California
5 law, the Plaintiff, [REDACTED] ("Plaintiff") right to voluntarily dismiss this action is cut-off
6 because the Plaintiff's request for dismissal without prejudice ("Request") is a tactical ploy that
7 will not resolve this action. The facts, show that Plaintiff is engaged in the act of forum
8 shopping. Case law holds that attempting to dismiss a case as a tactical ploy is improper and,
9 specifically, when a Plaintiff requests a dismissal to engage in forum shopping it imposes an
10 unnecessary burden on the defendant and the Court system and improperly prejudices the
11 defendant.

12 To avoid undue prejudice, PG&E requests that if the Court confirms the dismissal of this
13 action pursuant to Plaintiff's Request that the dismissal be **with prejudice**. In the alternative,
14 PG&E requests that the Court proceed with the hearing on the demurrer and motion to strike
15 Plaintiff's operative second amended complaint ("SAC") before rendering a decision regarding
16 dismissal.

16 I. FACTUAL BACKGROUND

17 On May 1, 2015, Plaintiff filed the SAC in this action. On May 20, 2015 PG&E filed and
18 served a demurrer to the SAC ("Demurrer") and a motion to strike portions of the SAC ("MTS").
19 See Castellón Decl., para. 3. The Demurrer specifically requested dismissal of Plaintiff's entire
20 action with prejudice. *Id.* The Demurrer and MTS are currently set for hearing on June 25,
21 2015. *Id.*

22 On May 22, 2015, Plaintiff filed the Request. The Request states that Plaintiff seeks
23 dismissal of PG&E "due to complete diversity jurisdiction." Plaintiffs in all of the pro per cases
24 pending in this Court also filed requests for dismissal and with the exception of two, they all
25 cited "complete diversity jurisdiction" as the basis for their request for dismissal. Further,
26 around the time of the filing of the Plaintiff's Request all but one of the pro per plaintiffs filed
27
28

1 California cases hold that a plaintiff's right to dismiss the action without prejudice may
2 be cut off where a dispositive motion is pending, before any ruling thereon, if the dismissal
3 appears to be a tactical ploy. See *Hardbrodt v. Burke* (1996) 42 Cal.App.4th 168, 175 (request
4 for dismissal without prejudice filed day before hearing on motion for terminating sanction in
5 discovery dispute); *Cravens v. State Board of Equalization* (1997) 52 Cal.App.4th 253, 257
6 (request for dismissal without prejudice filed after expiration of time to file opposition to motion
7 for summary judgment); See also *Mary Morgan, Inc. v. Melzark* (1996) 49 Cal.App.4th 765, 770
8 (voluntary dismissal not permitted after summary judgment hearing commenced and was
continued to permit discovery).

9 In the case *Wells v. Marina City Properties, Inc.*, 29 Cal.3d 781 (1981), the Court
10 considered the issue of whether a plaintiff should be allowed to dismiss the case and refile in
11 another Court after failing several attempts to amend his complaint to satisfy the Court that a
12 cause of action was stated. The *Wells* Court held that "[t]o accept his present argument... would
13 allow him to reassert the same allegations in still another complaint, seeking a more favorable
14 ruling from another court, rather than to proceed in a more appropriate, expeditious and final
15 course to appeal on the legal sufficiency of those allegations. The obvious consequence of such a
16 statutory construction would be to prolong, rather than to terminate, lawsuits. It would not serve
17 the orderly and timely disposition of civil litigation. No good reason appears why
18 encouragement should be given to such tactics, the effect of which is to expose the defendants to
19 duplicative 'annoying and continuous litigation,' to burden our trial court with 'fruitless'
20 proceedings, and to delay the ultimate resolution of the validity of the plaintiff's pleading."
21 *Wells* at 788-789. The *Wells* Court continued, stating "[o]ur interpretation of Section 581 does
22 not deny a plaintiff his day in court. It simply requires that he frame his allegations in order to
23 state a cause of action; and if a plaintiff is unable to do so after an adequate and reasonable
24 opportunity is afforded, he must proceed to a review of such legal determination by appeal, rather
25 than seek another trial forum in which to reassert the same claims." *Id.*

26 **B. Plaintiff's Request for Dismissal is a Tactical Ploy and Plaintiff Should Not**
27 **be Permitted to Dismiss the Case Without Prejudice**

28 Plaintiff's dismissal is a tactical ploy and, as such, the dismissal should be granted with
prejudice, not without. Plaintiff intends to dismiss his action in this Court but he does not seek a

1 jurisdiction. There can be no other reason plaintiffs have noticed changes of address after the
2 requests for dismissals were filed other than an attempt to establish diversity jurisdiction.

3 Plaintiff's ploy could not be more transparent. Aside from the fact that it is highly
4 unlikely that all of the plaintiffs changed domicile at the same time, the facts support a theory
5 that Plaintiff has no intention of resolving his claims through dismissal. Instead, the pro per
6 plaintiffs, including Plaintiff, intend to seek recovery in different forums. In addition, given the
7 above facts, it is clear that if all of the pro per plaintiffs are allowed to dismiss their cases without
8 prejudice then they will likely file a multiplicity of actions against PG&E in other California state
9 Courts and in federal Courts around the Country. PG&E will be faced with litigation in multiple
10 jurisdictions and the cost of defending all of these cases will be extremely high. Moreover, the
11 burden on the Court will be extensive and significant.

12 There is also a high possibility that the pro per plaintiffs' attempts to bring actions in
13 federal court pursuant to diversity jurisdiction will fail. Federal law clearly holds that it is
14 improper to attempt to manufacture diversity jurisdiction. "There must be an actual, not
15 pretended, change of domicile; in other words, the removal must be a real one, *animo manendi*,
16 and not merely ostensible." *Morris v. Gilmer*, 129 U.S. 315, 328 (internal citation omitted). The
17 burden will fall to the plaintiffs that have noticed out of state addresses to prove that the new
18 addresses are their place of domicile in order to establish that they are a citizen of that state. The
19 party seeking to invoke federal jurisdiction bears the burden of demonstrating that the
20 requirements of diversity are met. See *Pollution Control Indus. Of America, Inc. v. Van Gundy*,
21 21 F.3d 152, 155. "A person's state citizenship is determined by their state of domicile, not their
22 state of residence. A person is domiciled in a location where he or she has established a fixed
23 habitation or abode in a particular place, and [intends] to remain there permanently or
24 indefinitely." *Lew v. Moss*, (9th Cir. 1986) 797 F.2d 747, 749-750 (internal quotations omitted).
25 It has further been held that "domicile is generally a compound of physical presence plus an
26 intention to make a certain definite place one's permanent abode." *Weible v. United State*, (9th
27 Cir. 1957) 244 F.2d 158, 163.

28

Plummer, 380 U.S. 460, the United States Supreme Court held that one of the aims of the *Erie* rule was to discourage
forum-shopping. See *Hanna* at 468.

1 As such, PG&E requests that the Court permit it the opportunity to have its Demurrer and MTS
2 heard because there is a possibility that a ruling granting these motions could prevent significant
3 future prejudice.

4 IV. CONCLUSION

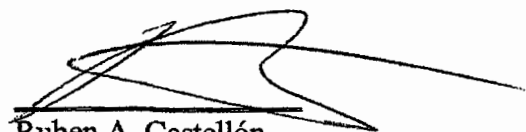
5 California law holds that a plaintiff does not maintain a right to dismiss an action when a
6 request for dismissal is a tactical ploy. Plaintiff's Request is made as a tactical ploy. Plaintiff
7 wishes to dismiss this action and seek another forum in which to bring claims against PG&E.
8 Working in conjunction with the other pro per plaintiffs, Plaintiff intends to bring multiple
9 actions against PG&E in federal courts in several states outside of California. Plaintiff's Request
10 will not serve to complete this action but will only place further undue prejudice, burden and
11 expense on PG&E and additional strain on the judicial system. California law prohibits such an
12 outcome.

13 Based on the foregoing, PG&E requests that the Court grant dismissal with prejudice or,
14 in the alternative, proceed with the hearing on PG&E's Demurrer and MTS. Moreover, because
15 the Demurrer and Motion to strike are unopposed, PG&E request that the Court grant both
16 motions in their entirety and dismiss Plaintiff's SAC without leave to amend.

17 Dated: June 24, 2015

CASTELLÓN & FUNDERBURK LLP

18
19 By:


20 Ruben A. Castellón
21 Alastair F. Hamblin
22 Attorneys for Pacific Gas and Electric
23 Company
24
25
26
27
28

VICTIMS TOWN OF HINKLEY

Temporary Mailing Address
[REDACTED]

Barstow, CA 92311

OGWDW - 4601M

Office of Ground Water and Drinking Water
U. S. EPA Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

REQUEST FOR RESPONSE

NO. 1

SUBJECT MATTER: INVESTIGATION

IN RE: ASSISTANCE BY YOUR OFFICE

Dated: July 15, 2015
[REDACTED]

Attn: Cal/EPA Law Enforcement and Counsel Office

The Victims from the town of Hinkley, CA 92347, per attached hereto signatures' pages, have not received your responses, now more specifically in regards to:

1. As to your request before the Federal Bureau of Investigation (FBI), aimed to obtain status on the sought by the Victims investigation from FBI.
2. As to the nature of your request(s) before FBI.
3. As to the how your office could assist the Victims, in addition to the sought investigation from FBI.
4. As to comments by your office in regards to the information received to date. More are pending.
5. As to seeking from the respective regulatory' and law enforcement agencies to do their job, as delegated by the People of this country.
6. As to your comments in regards to all that stated therein the "Open Letter to Honorable Barack Hussein Obama II, President United States of America, Attn: Hon. Mike Boots, Acting Chair, White House President Obama CEQ, dated July 13, 2015, a true copy is attached hereto for reference.

These Requests for Responses, should also be construed as the final efforts by the Victims to exhaust all administrative remedies, a prerequisite for all other actions. The Victims will have no other alternatives in the event of not served just and proper. The Victims are injured, both as to their health and welfare and are trapped in their irreparably damaged real property, unable to dispose it to any one, a poisoned realty. Inevitably, the poisoned realties in the town of Hinkley, California 92347, will be Superfund's sites. The Victims are not only becoming ill, with many illnesses and disease, but many are prematurely dying.

Open Letter to Honorable Barack Hussein Obama II, President United States
July 13, 2015

Victims Town of Hinkley
Temporary Mailing Address

Barstow, California 92311

July 13, 2015

White House President Obama CEQ
Attn: Hon. Mike Boots, Acting Chair
1600 Pennsylvania Avenue NW
Washington, DC 20500

cc: Per Mailing List attached hereto

Hon. Mike Boots, Acting Chair, President Obama CEQ:

Governmental officials, both federal and state, delegated with the authorities by the citizens of this country, (Victims inclusive), to protect their citizens from injuries to their health, to protect irreparable injuries to real properties and appurtenant drinking water / water rights, with inherent right to safe ground drinking water, has remained, as of date, mute, deaf and blind.

These inactions encompass the issue of poisoned aquifers and within the aquifers the poisoned ground drinking/potable waters, by Pacific Gas and Electric Company's operations, with dissolved Arsenic and Uranium, in addition to with dissolved Hexavalent Chromium for over six decades, which as of date is not removed from the Aquifers, thus all aquifers beneath the entire town of Hinkley, California 92347 remains poisoned.

The Victims are getting ill by the day, and some are prematurely dying (wrongful deaths) as a direct result thereof non-responsive federal and state governments, in addition to Pacific Gas and Electric Company (PG&E) alleged concealment of the real (not junk science") facts. These acts has occurred for six decades.

THEREFORE, the Victims demand, that an immediate and ultimate investigation, lead by the Federal Bureau of Investigation, is commenced without any offset, without any further wrangling, and as a bare minimum, investigation of five areas, per attached hereto maps:

AQUIFERS' AREAS 1, 3 and 5: These areas are far away from any major private agricultural and dairy farms (more than a mile away), but is within the operational by Pacific Gas and Electric Company (PG&E), since 1991 and 2005, respectively, termed as agricultural / land treatment units, that are attempting to clean the poisoned aquifers with Hexavalent Chromium.

Open Letter to Honorable Barack Hussein Obama II, President United States of America
July 13, 2015

PG&E's operations for these areas are termed as the Southern ATUs, (agricultural treatment units), are cross gradient in the groundwater flow, or pressure due to recharge, and are within the 1 and 3 mile, respectively, from the AQUIFERS' AREAS 1, 3 and 5.

AQUIFERS' AREAS 2 and 4: These areas are far away from any major private agricultural and dairy farms (more than 1 mile away), but is within the operational by Pacific Gas and Electric Company (PG&E), since 1991 and 2005, respectively, termed as agricultural / land treatment units, that are attempting to clean the poisoned aquifers with Hexavalent Chromium.

PG&E's operations for these areas are termed as the Northern ATUs, (agricultural treatment units), are cross gradient in the groundwater flow, or pressure due to recharge, and are within 1 and 3 mile, respectively, from AQUIFERS' AREAS 2 and 4.

THE AQUIFERS' AREAS 1, 2, 3, 4 and 5 are privately owned and the Victims will hand sampled water, via extraction well, from the aquifer beneath their real properties, which multiple aquifers serves more than 25 connections, in containers provided by scientific and analytical laboratory, state certified, in the presence of any governmental official, as the witness.

FBI and the regulatory agency, should cause, under investigation order, for these samples (unfiltered – as-is taken directly from the aquifers) be analyzed for dissolved Arsenic and Uranium, which substances are extremely highly toxic and a primary. These substances were discharged into PG&E's agricultural-land treatment units and had more than ample time, over 24 years, and not less than 10 years, to percolate back to the aquifers beneath the entire town of Hinkley, California 92347, and poisoned all over again all aquifers and the respective ground drinking and for all other intensive purposes potable waters.

In light of deferred actions, deferred over six decades, the State's Senate, the US Senate, the respective Congress members and Assembly members, per attached hereto Mailing List, should participate in these, neglected for six decades investigatory task, by seeking from the respective regulatory' and law enforcement agencies to do their job, as delegated by the People of this country.

_____/s/_____

Signature (See attached hereto Signatures List)

///

VICTIMS FROM HINKLEY, CA 92347

NO.	Victim's Name	Signature or Signature on Behalf of	Victim's Mailing Address
1	Personal Privacy 6	Personal Privacy 6	

Personal Privacy 6

Personal Privacy 6

Personal Privacy 6

Personal Privacy 6

Personal Privacy 6

Personal Privacy 6

MAILING LIST

<p>California Environmental Protection Agency Cal/EPA Law Enforcement and Counsel Office 1001 "I" Street Sacramento, California 95814</p>	<p>The Honorable Dianne Feinstein, Senator United States Senate Committee on the Judiciary 224 Dirksen Senate Office Building, Washington, D.C. 20510-6050</p>
<p>Office of Environmental Health Hazard Assessment (OEHHA) Prop 65 ARSENIC Attn: Cynthia Oshita, (Disclosure) P.O. Box 4010 Sacramento, California 95812</p>	<p>Hon. Barbara Boxer, U.S. Senator U.S. Senate Committee on Environment 112 Hart Senate Office Building Washington, D.C. 20510</p>
<p>Hon. Jerry Hill, Chair California Senate EQC Oversight State Capitol, Room 2205 Sacramento, California 95814</p>	<p>Hon. Nancy Patricia D'Alesandro Pelosi U. S. Congresswoman United States House of Representatives 233 Cannon H.O.B. Washington, DC 20515</p>
<p>Hon. Luis A. Alejo, Assembly Member Environmental Safety and Toxic Materials Committee 1020 N Street, Room 171 Sacramento, California 95814</p>	<p>Hon. Paul Cook, U.S. Congressman United States House of Representatives 1222 Longworth House Office Building Washington, D.C. 20515-0508</p>
<p>Attn: Gary Edward Tavetian, Esq. Supervising Deputy Attorney General OFFICE OF THE ATTORNEY GENERAL, DOJ Natural Resources Law Section 300 S. Spring Street, #5000 Los Angeles, California 90013</p>	<p>Attn: Julie Jordan; Dan Drazan; Tracy Back US EPA Criminal Investigation Division (CID) Los Angeles Resident Office 600 Wilshire Blvd., Suite 900 Los Angeles, CA 90017</p>
<p>Ross Sevy, District Director Office of Jay Obernolte, Assemblyman 15900 Smoke Tree Street, Suite 125 Hesperia, California 92345</p>	<p>Attn: Deborah L. Harris; W. Benjamin Fisherow U.S. DOJ / Environmental Enforcement Environment and Natural Resources Division 950 Pennsylvania Avenue, NW Washington, DC 20530-0001</p>
<p>Proposition 65 Enforcement Reporting Attention: Prop 65 Coordinator 1515 Clay Street, Suite 2000 Post Office Box 70550 Oakland, California 94612-0550</p>	<p>Attn: Bill L. Lewis; Kendrick D. Williams; Terry Wade; Joseph O. Johns; Patrick Bohrer FBI Investigation Division 11000 Wilshire Boulevard, Suite 1700 Los Angeles, CA 90024</p>

<p>California Attorney General Office, DOJ Proposition 65 Enforcement Reporting 1515 Clay Street, Suite 2000 Oakland, California 94612-0550</p>	<p>OGWDW - 4601M Office of Ground Water and Drinking Water U. S. EPA Environmental Protection Agency 1200 Pennsylvania Avenue, N.W. Washington, DC 20460</p>
<p>Diane Trujilo, Enforcement Agent CAL / EPA ENFORCEMENT 1001 "I" Street Sacramento, CA 95814</p>	<p>White House President Obama CEQ Attn: Hon. Mike Boots, Acting Chair 1600 Pennsylvania Avenue NW Washington, DC 20500</p>
<p>The Honorable Leondra R. Kruger Supreme Court of California 350 McAllister Street San Francisco, CA 94102-4797</p>	<p>Clark Hansen, Chief Deputy District Attorney SAN BERNARDINO COUNTY DISTRICT ATTORNEY BUREAU OF INVESTIGATION -- ENVIRONMENTAL CRIMES 14455 Civic Dr., Suite 300 Victorville, CA 92392</p>
<p>The Honorable Joanne B. O'Donnell The California Supreme Court Committee on Judicial Ethics Opinions 350 McAllister Street, Room 1144A San Francisco, California 94102</p>	<p>Hon. Bob Wieckowski, Senator State Capitol, Room 3086, Sacramento, CA 95814-4900 Tel (916) 651-4010</p>

VICTIMS TOWN OF HINKLEY

Temporary Mailing Address

[REDACTED]
Barstow, CA 92311

TRANSMITTAL

Dated: July 18, 2015

OGWDW - 4601M

Office of Ground Water and Drinking Water
U. S. EPA Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Attached hereto and incorporated for future reference are:

1. INVESTIGATION REQUEST OF ACTS SUBJECT TO PUBLIC DISCLOSURE.

INVESTIGATION REQUEST

STATE WATER RESOURCES CONTROL BOARD

Staff:

STATE WATER RESOURCES CONTROL BOARD / Board Members:

Vice Chair [REDACTED], Chair [REDACTED], and [REDACTED]

BEFORE: Investigative Staff: [REDACTED], CGFM, Manager of Investigations [REDACTED],
[REDACTED], CFE [REDACTED], CFE [REDACTED], CFE [REDACTED], JD,
CFE [REDACTED], CFE Support Staff: [REDACTED], Office Technician [REDACTED],
Investigative Analyst [REDACTED], Investigative Analyst [REDACTED],
Investigative Analyst [REDACTED], Investigative Analyst Legal Counsel: [REDACTED] Staff Counsel
Attn: [REDACTED] Chief Deputy

Investigations
California State Auditor
P.O. Box 1019
Sacramento, CA 95812

cc: Attn: Public Records Act Coordinator
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, California 95814
Business: (916) 445-0255
PRAcordinator@auditor.ca.gov
cc: The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol Sacramento, California 95814

2. VICTIMS SIGNATURES' PAGES
3. MAILING LIST
4. EXHIBITS

DEMAND BY THE VICTIMS FROM THE TOWN OF HINKLEY, CA 92347, FOR AN IMMEDIATE INVESTIGATION AND REPORTING TO THE CITIZENS OF THIS COUNTRY OF THE OUTCOME

VICTIMS TOWN OF HINKLEY

Temporary Mailing Address

Barstow, California 92311

July 18, 2015

Attn: Doug Cordiner, Chief Deputy, Investigations
California State Auditor
P.O. Box 1019
Sacramento, CA 95812

Attn: Investigative Staff

[REDACTED], CGFM, Manager of Investigations [REDACTED], CFE [REDACTED]
CFE [REDACTED], CFE [REDACTED], JD, CFE [REDACTED], CFE [REDACTED]
Support Staff: [REDACTED] Office Technician [REDACTED] Investigative Analyst [REDACTED]
Investigative Analyst [REDACTED] Investigative Analyst [REDACTED] Investigative Analyst Legal
Counsel: [REDACTED] Staff Counsel [REDACTED]

cc: The Governor of California

[REDACTED] pro Tempore of the Senate

[REDACTED] Assembly

State Capitol Sacramento, California 95814

cc: Attn: Public Records Act Coordinator

California State Auditor

621 Capitol Mall, Suite 1200

Sacramento, California 95814

Business: (916) 445-0255

PRAcordinator@auditor.ca.gov

DEMAND BY THE VICTIMS FROM THE TOWN OF HINKLEY, CA 92347, FOR AN IMMEDIATE INVESTIGATION AND REPORTING TO THE CITIZENS OF THIS COUNTRY THE OUTCOME OF THE INVESTIGATION, ENCOMPASSING OCCURRED MAJOR IMPROPER ACTIVITIES BY STATE OF CALIFORNIA LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD AND STATE WATER RESOURCES CONTROL BOARD, AS TO RECEIVED MILLIONS OF DOLLARS FROM PACIFIC GAS AND ELECTRIC COMPANY AND FROM UNITED STATES OF AMERICA

POINTS AND AUTHORITIES

Message from the Hon. ELAINE M. HOWLE, CPA, State Auditor

"We recognize that the citizens and the government rely on us to ensure the effective and efficient administration and management of public funds and programs. It is our job to help make sure that California government stays one step ahead. As the State's independent external auditor, we provide nonpartisan, accurate, and timely assessments of California government's financial and operational activities in compliance with generally accepted government auditing standards.

I hope you find the results of our efforts useful and informative."

DEMAND BY THE VICTIMS FROM THE TOWN OF HINKLEY, CA 92347, FOR AN IMMEDIATE INVESTIGATION AND REPORTING TO THE CITIZENS OF THIS COUNTRY OF THE OUTCOME

"INVESTIGATION. While the California State Auditor lacks enforcement powers, the State Auditor is authorized to report publicly on the results of any investigation that substantiates an improper governmental activity has occurred. The State Auditor may make recommendations to a state department when reporting on an investigation to address the reported improper activity and prevent it from recurring. "<https://www.bsa.ca.gov/pdfs/reports/I2014-1.pdf>"

ALLEGATIONS

1. Unjust enrichment by the Lahontan Board's staff Patty Kouyoumdjian, Lauri Kemper, Lisa Denbarch; and by the Board Members: Dorene D'Adamo, Vice Chair Frances Spivy Weber, Chair Felicia Marcus, Steven Moore, and Tam Doduc, at the expense of the Victims from the town of Hinkley, CA 92347 who has sustained health damages and irreparable harm to their realties. The huge unjust enrichment resulted therefrom received \$ 3,500,000.00, \$ 1,800,000.00, \$ 346,000.00 and all other (under the table substantial retainment dollars), from Pacific Gas and Electric Company (PG&E), alleged to be the Board's staff and Board's members new employer.
2. Under the disguise of purported study by Mr. Izbicki from USGS, as to what is naturally occurring chromium verse anthropogenic, a study which will accomplish nothing meaningful, but it will definitely shield PG&E from further investigations, strict liabilities and prosecution, PG&E paid the Boards all that money, that now must be accounted under the microscope, since are alleged as "bribery money". The Victims will be soon submitting massive Volume of allegations.
3. The Board's staff and Members admitted that has deposited all that money and nothing was withdrawn for inappropriate activities. The Victims says "let's find out"
4. The Board's staff and Members, also received \$ 1,000,000.00 (rounded) from the Federal Government, under the pretext that such money will be paid to Mr. Izbicki from USGS.
5. The Victims will, under separate cover transmit Volume of allegations in regards to misappropriation of Federal Funds, causing not only unjust enrichment to the Board's staff, the Board's members, but to Mr. Izbicki.
6. Here, the Victims further alleges massive conspiracy, obviously when the corporate moneys talks, all the rest of the governmental staffer's integrities walks. It is more than obvious of who is the new employer of the State of California Board's staffers and members.

This is massive investigation, that will thwart all other by the California State Auditor, in its history.

It is time (time-out) for massive check and balances, not only to save the Victims from myriad of illnesses and diseases, but premature death (wrongful death) that resulted therefrom being poisoned with toxic substances, definitely caused by PG&E, beyond any reasonable doubt.

There is a pattern of misconduct by Board's managers. See attached hereto Exhibits, the \$3,500.00 embezzled money, construed as a tip of an iceberg. Let's talk about the multi-millions received.

VICTIMS FROM HINKLEY, CA 92347

NO.	Victim's Name	Signature or Signature on Behalf of	Victim's Mailing Address
1	Personal Privacy 6	Personal Privacy 6	

Personal Privacy 6

Personal Privacy 6

Personal Privacy 6

Personal Privacy 6

Personal Privacy 6

MAILING LIST

<p>California Environmental Protection Agency Cal/EPA Law Enforcement and Counsel Office 1001 "P" Street Sacramento, California 95814</p>	<p>Hon. Dianne Feinstein, U.S. Senator SAN FRANCISCO OFFICE One Point Street, Suite 2450 San Francisco, CA 94104</p>
<p>Office of Environmental Health Hazard Assessment (OEHHA) Prop 65 ARSENIC Attn: Cynthia Oshita, (Disclosure) P.O. Box 4010 Sacramento, California 95812</p>	<p>Hon. Barbara Boxer, U.S. Senator U.S. Senate Committee on Environment 112 Hart Senate Office Building Washington, D.C. 20510</p>
<p>Hon. Jerry Hill, Chair California Senate EQC Oversight State Capitol, Room 2205 Sacramento, California 95814</p>	<p>Hon. Nancy Patricia D'Alesandro Pelosi U. S. Congresswoman United States House of Representatives 233 Cannon H.O.B. Washington, DC 20515</p>
<p>Hon. Luis A. Alejo, Assembly Member Environmental Safety and Toxic Materials Committee 1020 N Street, Room 171 Sacramento, California 95814</p>	<p>Hon. Paul Cook, U.S. Congressman United States House of Representatives 1222 Longworth House Office Building Washington, D.C. 20515-0508</p>
<p>Attn: Gary Edward Tavetian, Esq. Supervising Deputy Attorney General OFFICE OF THE ATTORNEY GENERAL, DOJ Natural Resources Law Section 300 S. Spring Street, #5000 Los Angeles, California 90013</p>	<p>Attn: Julie Jordan; Dan Drazan; Tracy Back US EPA Criminal Investigation Division (CID) Los Angeles Resident Office 600 Wilshire Blvd., Suite 900 Los Angeles, CA 90017</p>
<p>Ross Sevy, District Director Office of Jay Obernolte, Assemblyman 15900 Smoke Tree Street, Suite 125 Hesperia, California 92345</p>	<p>Attn: Deborah L. Harris; W. Benjamin Fisherow U.S. DOJ / Environmental Enforcement Environment and Natural Resources Division 950 Pennsylvania Avenue, NW Washington, DC 20530-0001</p>
<p>Proposition 65 Enforcement Reporting Attention: Prop 65 Coordinator 1515 Clay Street, Suite 2000 Post Office Box 70550 Oakland, California 94612-0550</p>	<p>Attn: Bill L. Lewis; Kendrick D. Williams; Terry Wade; Joseph O. Johns; Patrick Bohrer FBI Investigation Division 11000 Wilshire Boulevard, Suite 1700 Los Angeles, CA 90024</p>

<p>California Attorney General Office, DOJ Proposition 65 Enforcement Reporting 1515 Clay Street, Suite 2000 Oakland, California 94612-0550</p>	<p>OGWDW - 4601M Office of Ground Water and Drinking Water U. S. EPA Environmental Protection Agency 1200 Pennsylvania Avenue, N.W. Washington, DC 20460</p>
<p>Diane Trujilo, Enforcement Agent CAL / EPA ENFORCEMENT 1001 "I" Street Sacramento, CA 95814</p>	<p>Hon. Bob Wieckowski, Senator State Capitol, Room 3086, Sacramento, CA 95814-4900 Tel (916) 651-4010</p>
<p>The Honorable Leondra R. Kruger Supreme Court of California 350 McAllister Street San Francisco, CA 94102-4797</p>	<p>Attn: Doug Cordiner, Chief Deputy Investigations California State Auditor P.O. Box 1019 Sacramento, CA 95812</p>
<p>The Honorable Joanne B. O'Donnell The California Supreme Court Committee on Judicial Ethics Opinions 350 McAllister Street, Room 1144A San Francisco, California 94102</p>	<p>Attn: Public Records Act Coordinator California State Auditor 621 Capitol Mall, Suite 1200 Sacramento, California 95814</p>
<p>The Governor of California President pro Tempore of the Senate Speaker of the Assembly State Capitol Sacramento, California 95814</p>	<p>Comptroller General of the United States U.S. Government Accountability Office (GAO) 350 South Figueroa Street, Suite 1010 Los Angeles, CA 90071</p>

December 23, 2014

Investigative Report I2014-1

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

Pursuant to the California Whistleblower Protection Act, the California State Auditor (state auditor) presents its investigative report summarizing investigations that were completed concerning allegations of improper governmental activities.

This report details 10 substantiated allegations involving several state departments. Through our investigations, we found theft of state funds, waste of public resources, improper headquarters designations and improper travel expenses, and incompatible activities. In one case, we determined that a manager at the State Water Resources Control Board (Water Board) embezzled more than \$3,500 in state funds that she received when she recycled surplus state property on behalf of the Water Board. In addition, the California Military Department (Military Department) failed to keep an accurate inventory of state property of its Camp Roberts training facility, which led to a loss of inventory valued at \$33,400. Although the Military Department subsequently implemented a corrective action plan intended to prevent further waste, it has not yet completed its effort to ensure accountability for state property more than three years after it provided the state auditor with its plan.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

Summary

Results in Brief

The California Whistleblower Protection Act (Whistleblower Act) empowers the California State Auditor (state auditor) to investigate and report on improper governmental activities by agencies and employees of the State. Under the Whistleblower Act, an *improper governmental activity* is any action by a state agency or employee related to state government that violates a law, is economically wasteful, or involves gross misconduct, incompetence, or inefficiency.¹

This report details the results of four particularly significant investigations completed by the state auditor or undertaken jointly by the state auditor and other state agencies. This report also outlines the investigative results from another six investigations that were best suited for other state agencies to investigate on behalf of the state auditor. The following paragraphs briefly summarize the investigations, which are discussed more fully in the individual chapters of this report.

State Water Resources Control Board

A manager at the State Water Resources Control Board (Water Board) embezzled more than \$3,500 in state funds that she received when she recycled surplus state property on behalf of the Water Board. The manager embezzled the funds by directing a moving company under contract with the State to take the surplus property to a local recycling center and, contrary to common practice at the Water Board, instructing the movers to obtain payment in cash from the recycling center instead of by check. She then took the cash to her house instead of submitting it to the Water Board's accounting office. After the manager learned about our investigation, she tried to cover up the embezzlement by filing a police report stating that someone had broken into her personal vehicle and stolen the funds. She later repaid more than \$2,500 to the Water Board; however, this amount was nearly \$1,000 less than she embezzled.

Investigative Highlights . . .

State employees and agencies engaged in improper activities, including the following:

- » *A manager embezzled \$3,500 in state funds when she recycled surplus state property and kept the proceeds.*
- » *A state agency failed to keep an accurate inventory of its property at a training facility, which led to the loss of inventory valued at \$33,400.*
- » *A manager and other employees failed to accurately designate an employee's headquarters and, as a result, reimbursed the employee \$26,800 in improper travel payments over a five-year span.*
- » *A full-time employee lied to his manager about needing to telecommute, and instead worked a second full-time job without his agency's knowledge.*

¹ For more information about the state auditor's investigations program, please refer to the Appendix.